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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,984	10/17/2001	Mike Reeves	53921/90	4341

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EXAMINER	
MURPHY, RHONDA L	
ART UNIT	**PAPER NUMBER**
2667	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/977,984	REEVES ET AL.	
	Examiner	Art Unit	
	Rhonda Murphy	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 October 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/13/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in on October 17, 2001. It is noted, however, that applicant has not filed a certified copy of the foreign priority application as required by 35 U.S.C. 119(b).

Specification

2. The disclosure is objected to because page 10, line 9 contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

3. Claim 8 is objected to because of the following informalities: A period is missing at the end of the sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Fourcand et al. (US 6,731,741).

Regarding claim 10, Fourcand teaches a communications network comprising two nodes (Fig. 1B, signaling server 20 and main distribution frame 52) having at least two communications links associated between said two nodes (T1, E1, and OC-3 links), a method of selecting one of said at least two communications links for signaling between said two nodes utilizing a round-robin algorithm (col. 12, lines 66-67, col. 13, lines 1-3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohba et al. (US 6,055,561).

Regarding claim 1, Ohba teaches a method of timing an attempt to establish a connection path between a first and second node in a communications network (page 7, paragraph 108), said method comprising initiating said attempt to establish a connection path after a period of time has elapsed (page 8, paragraph 121; retransmitting the label allocation message... after a prescribed period of time).

Although Ohba teaches retransmissions at prescribed time periods, Ohba fails to explicitly disclose said time period being greater than another period of time which had previously elapsed between two previous attempts, if any, to establish said connection.

However, it would have been obvious to attempt to establish a connection after a greater period of time than that of the two prior attempts, since an unsuccessful connection resulted from the previous attempts and a greater length of time between the unsuccessful attempts will utilize system resources more efficiently.

Regarding claim 2, Ohba teaches retransmitting the label allocation message after a prescribed period of time (page 8, paragraph 121).

Ohba fails to explicitly disclose the period of time being greater than another period of time by a fixed time value.

However, it would have been obvious for the period of time to be greater than another period of time by a fixed time value, since an unsuccessful connection resulted from the previous attempts and a greater fixed length of time between the unsuccessful attempts will utilize system resources more efficiently.

Regarding claim 3, Ohba teaches a threshold associated with the number of retransmissions (page 3, paragraph 121). Thus, indicating a period of time that does not exceed a maximum time value.

Regarding claim 4, Ohba teaches an MPLS system involving the connection of label switched paths (page 1, paragraphs 2 and 4).

Ohba fails to explicitly disclose a soft permanent label switched path.

However, MPLS systems include a label distribution protocol (LDP) that implements soft permanent label switched paths through the use of a network operator. Therefore, it would have been obvious to one skilled in the art to incorporate a connection path that is a soft permanent label switched path, for the purpose of enabling a network operator to automatically establish the path.

Regarding claim 5, Ohba teaches retransmitting the label allocation message after a prescribed period of time (page 8, paragraph 121).

Ohba fails to explicitly disclose a time period of 10 seconds.

However, a prescribed time period can be a fixed length of any amount of time. Therefore, it would have been obvious to one skilled in the art to include a fixed time value of ten seconds, so as to initiate retransmission every ten seconds.

Regarding claim 6, Ohba teaches a method of timing attempts to establish connections for a plurality of requests for connections in a communication network (page 7, paragraphs 108-109), said method comprising: having a timer arrangement tracking passage of a regular interval of time (page 8, paragraph 121; retransmitting the label allocation message...after a prescribed period of time); having a list of records relating said plurality of requests for connections (page 7, paragraph 110; information stored in tables); selecting one record from said list (page 15, paragraph 219 & 221); attempting to establish a connection relating to said one record (page 15, paragraph 221; checking flow ID); and if said connection relating to said one record is established, then marking said one record as being successful (page 15, paragraph 225), otherwise, re-attempting

to establish said connection at successive intervals increasing by said regular interval (page 8, paragraph 121).

Ohba fails to explicitly increasing the regular interval.

However, it would have been obvious to increase the regular interval when re-attempting to establish a connection, since an unsuccessful connection resulted from the previous attempts and a greater interval of time between the unsuccessful attempts will utilize system resources more efficiently.

Regarding claim 7, Ohba teaches selecting one record from said list comprising: having a time field in said list of records (page 1, paragraph 7; TTL field); on each said regular interval of time for each entry in said list of records: decrementing a time value in said time field (page 1, paragraph 7; decremented by one); and if said time value is zero for an entry is zero, then selecting said entry as said one record (page 18, paragraph 260; count is 0 and message is transmitted to the next hop node).

Regarding claim 8, Ohba teaches retransmitting the label allocation message after a prescribed period of time and a threshold associated with the number of retransmissions (page 3, paragraph 121). Thus, indicating a time interval that does not exceed a maximum time value.

Regarding claim 9, Ohba teaches retransmitting the label allocation message after a prescribed period of time (page 8, paragraph 121).

Ohba fails to explicitly disclose a maximum time value of sixty seconds.

However, a prescribed time period can be a time value of any length. Therefore,

it would have been obvious to one skilled in the art to include a maximum time value of sixty seconds, so as to initiate retransmission every sixty seconds.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fourcand et al. (US 6,731,741).

Regarding claim 11, Fourcand discloses signaling links affected by failures (col. 3, lines 64-67).

Fourcand fails to explicitly disclose not selecting any communications link of the at least two communications links having insufficient resources for communications between said two nodes or having a failure therein.

However, it would have been obvious to not select any communication link having insufficient resources or having a failure. If links are affected by failure or have insufficient resources to properly transmit data, these particular links would not be chosen as means to transfer data.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Feldman et al. (US 6,055,561) discloses mapping of routing traffic to switching networks.

*McDysan et al. (US 2005/0117576) discloses a network access system including a programmable access device having distributed service control.

*Mauger et al. (US 6,882,643) discloses supporting multiple services in label switched networks.

*Raj et al. (US 6,628,649) discloses an apparatus and methods providing redundant routing in a switched network device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 8:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rhonda Murphy
Examiner
Art Unit 2667

rlm

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